

**SUPREME COURT MINUTES
MONDAY, JANUARY 7, 2002
SAN FRANCISCO, CALIFORNIA**

The Supreme Court of California convened in the courtroom of the Earl Warren Building, 350 McAllister Street, Fourth Floor, San Francisco, California, on January 7, 2002, at 9:00 a.m.

Present: Chief Justice Ronald M. George, presiding, and Associate Justices Kennard, Baxter, Werdegarr, Chin, Brown, and Moreno.

Officers present: Frederick K. Ohlrich, Clerk; and Harry Kinney, Supreme Court Marshal.

S094675 County of Riverside, Petitioner

v.

Superior Court of the Riverside County, Respondent

Xavier Martin Madrigal, Real Party in Interest

Cause called. Christopher Lockwood opened argument for Petitioner.

Jordan N. Gray continued argument for Petitioner.

Michael P. Stone argued for Real Party in Interest.

Mr. Lockwood replied.

Cause submitted.

S087346 William Hamilton et al., Respondents

v.

Maryland Casualty Company, Appellant

Cause called. Michael Rubin argued for Respondents.

Jonathan Margolis opened argument for Appellant.

Peter Abrahams, appearing for Amicus Curiae American International Companies et al. continued argument for Appellant.

Mr. Rubin replied.

Cause submitted.

Justice Marvin R. Baxter, not participating in consideration of the following case, did not take the bench.

The Honorable Art W. McKinster, Associate Justice, Court of Appeal, Fourth District, Division Two, sitting on the following case under assignment by the Chairperson of the Judicial Council, joined the Court at the bench.

S097222 The People, Plaintiff and Respondent

v.

Alfonso Cortez Crossdale, Defendant and Appellant

Cause called. Robert Morgester, Deputy Attorney General, argued for Respondent.

John Steinberg argued for Appellant.

Mr. Morgester replied.

Cause submitted.

Court recessed upon 1:30 p.m. this date.

Court reconvened pursuant to recess.

Members of the Court and Officers present as first shown.

S086481 The People, Respondent

v.

Chad Melvin Mancebo, Appellant

Cause called. Eric Christofferson, Deputy Attorney General, argued for Respondent.

Kyle Gee argued for Appellant.

Mr. Christofferson replied.

Cause submitted.

S097344 Summit Financial Holdings, Ltd., Plaintiff and Respondent
 v.
 Continental Lawyers Title Company, Defendant and Appellant
 Cause called. Robert M. Grandon argued for Respondent.
 Marc Rohatiner opened argument for Appellant.
 Terry Kaplan, appearing for Amicus Curiae California Land Title
 Company, continued argument for Appellant.
 Harry W.R. Chamberlain II, appearing for Amicus Curiae
 American Insurance Association, continued argument for Appellant.
 Mr. Grandon replied.
 Cause submitted.

S095660 The People, Plaintiff and Respondent
 v.
 Eva Valdez et al., Defendant and Appellants
 Cause called. Jo Graves, Senior Assistant Attorney General,
 argued for Respondent.
 Scott Conklin argued for Appellant Valdez.
 No appearance for Appellant Lebron.
 Ms. Graves replied.
 Cause submitted.

Court adjourned.

S009038 In re Thomas L. Riordan and
Robert M. Sanger on Contempt

The People, Plaintiff and Respondent

v.

Richard Dean Turner, Defendant and Appellant

THE COURT

On October 19, 1988, in San Bernardino County Superior Court, defendant Richard Dean Turner was sentenced to death. On September 12, 1991, attorney Thomas L. Riordan was appointed as lead counsel to represent defendant Turner in his automatic appeal and any related habeas corpus proceedings; on June 26, 1992, attorney Robert M. Sanger was appointed as associate counsel to represent defendant Turner in the same capacity. The record on appeal was certified on July 6, 1999, and included a reporter's transcript of 4,675 pages and a clerk's transcript of 3,303 pages, including approximately 1,755 pages of juror questionnaires. By letter on that same date, the court informed Riordan and Sanger that the appellant's opening brief was due on August 16, 1999. The court thereafter granted requests for extensions of time to file appellant's opening brief on August 20, 1999, October 21, 1999, December 23, 1999, February 28, 2000, April 18, 2000, and July 3, 2000.

On August 25, 2000, we granted Riordan and Sanger's seventh request for an extension of time to file the opening brief "to and including October 13, 2000," but stated in our order: "No further extensions of time are contemplated." On October 24, 2000, we granted an eighth request for extension of time to file the opening brief "to and including December 12, 2000," but stated in our order: "No further extensions of time will be granted." On December 12, 2000, Riordan and Sanger filed a ninth request for extension of time to file the opening brief, which the court denied on December 20.

On February 2, 2001, Sanger filed a request to reinstate the briefing schedule and grant an additional six months in which to submit the appellant's opening brief. On February 22, 2001, the court denied the request. On February 21, 2001, Riordan filed a request to withdraw and "substitute in" attorney Sanger as lead counsel. On June 13, 2001, the court denied the request "without prejudice, subject to the filing of a new and different application to withdraw after the filing of the appellant's opening brief and associate counsel Sanger's filing of a request to be designated as

lead counsel of record.”

On June 27, 2001, we directed that appellant’s opening brief “shall be filed on or before July 31, 2001.” Our order further warned that “[i]f the brief is not filed by that date, the court will consider issuing an order directing appellant’s counsel, Thomas L. Riordan and Robert M. Sanger, to show cause before this court, when the matter is ordered on calendar, why counsel should not be held in contempt of court and further payments suspended or other sanction imposed for their delay in the appellate process occasioned by the eight extensions of time to file the brief thus far granted.”

Riordan and Sanger did not file the opening brief on or before July 31, 2001. On August 15, 2001, the court issued an order for Riordan and Sanger to show cause before this court on a date to be determined in November, 2001, “why they should not be held in contempt of court for the willful neglect of their duty to file the appellant’s opening brief in this case, which we previously ordered to be filed on or before July 31, 2001.” The court also ordered Riordan and Sanger to file a return on or before September 7, 2001. Both attorneys filed a timely return.

Riordan and Sanger appeared before the court on November 7, 2001, and were afforded an opportunity to explain why they had not complied with the court’s June 27, 2001, order.

The court finds Riordan has not complied with the court’s June 27, 2001, order. The court also finds Riordan was aware of and had the ability to comply with that order, and his failure to do so was willful. Willful failure to comply with an order of the court constitutes contempt. (*In re Grayson* (1997) 15 Cal.4th 792, 794; Code Civ. Proc., § 1209, subd. (a)(5).)

Riordan’s failure to comply with the June 27, 2001, order of this court is an act occurring within the immediate view and presence of the court within the meaning of Code of Civil Procedure section 1211, and constitutes a direct contempt. (*In re Grayson, supra*, 15 Cal.4th at p. 794.)

The court finds Thomas L. Riordan guilty of contempt of this court. Having been adjudged in contempt of the California Supreme Court, Thomas L. Riordan is ordered to pay a fine of \$1,000.

Pursuant to Business and Professions Code section 6086.7, the clerk is directed to notify the State Bar of this action by forwarding to the State Bar a copy of this judgment of contempt.

S009038 People, Respondent

v.

Richard Dean Turner, Appellant

In conjunction with the order filed November 14, 2001, relieving Thomas L. Riordan as counsel of record for Richard Dean Turner in *People v. Turner* (S009038), Riordan is ordered to reimburse this court the sum of \$42,378.36 for fees paid for preparation of the appellant's opening brief.

4th Dist. Michael Merritt, Petitioner

G030099 v.

Div. 3 Orange County Superior Court, Respondent

S103326 Integratests Inc., Real Party in Interest

Application for stay and petition for review DENIED.

1st Dist. People, Respondent

A092993 v.

Div. 3 Kirk David Hamilton, Appellant

The time for granting review on the court's own motion is hereby extended to and including February 28, 2002. (Cal. Rules of Court, rule 28(a)(1).)

2nd Dist. People, Respondent

B144359 v.

Tarik Akim Clark, Appellant

The time for granting review on the court's own motion is hereby extended to and including February 6, 2002. (Cal. Rules of Court, rule 28(a)(1).)

6th Dist. People, Respondent

H022072 v.

Claude Miller, Appellant

The time for granting review on the court's own motion is hereby extended to and including February 5, 2002. (Cal. Rules of Court, rule 28(a)(1).)

S100997 People, Respondent

v.

David Joseph Calloway, Appellant

Upon request of appellant for appointment of counsel, Valerie G. Wass is hereby appointed to represent appellant on his appeal now pending in this court.

S101457 People, Respondent

v.

Bruce Gordon, Appellant

Upon request of appellant for appointment of counsel, John Staley is hereby appointed to represent appellant on his appeal now pending in this court.